

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION)

Plaintiff,)

v.)

BRIAN N. LINES, SCOTT G. S. LINES,)
LOM (HOLDINGS) LTD.,)
LINES OVERSEAS MANAGEMENT LTD.,)
LOM CAPITAL LTD.,)
LOM SECURITIES (BERMUDA) LTD.,)
LOM SECURITIES (CAYMAN) LTD.,)
LOM SECURITIES (BAHAMAS) LTD.,)
ANTHONY W. WILE, WAYNE E. WILE,)
ROBERT J. CHAPMAN, WILLIAM TODD)
PEEVER, PHILLIP JAMES CURTIS, AND)
RYAN G. LEEDS,)

Defendants.)

*Granted.
J. J. B.
6/22/22*

Case No. 1:07-cv-11387 (DLC)

**PLAINTIFF'S MOTION AND MEMORANDUM OF LAW IN SUPPORT OF
ORDER TO DISBURSE FUNDS TO PAY TAX OBLIGATIONS**

MOTION

The United States Securities and Exchange Commission ("SEC" or "Commission") respectfully requests that the Court enter an Order for the Clerk of the Court to disburse funds on deposit with the registry of the Court to pay late payment interest of \$41.27 related to the 2010 federal tax liability.

MEMORANDUM

A. Procedural Background

By Order dated October 14, 2010, the Court entered Final Judgments, ordering: Brian Lines, Scott Lines and the LOM Entities to pay, jointly and severally, disgorgement of \$1,277,403 and prejudgment interest of \$654,918; Brian Lines to pay a civil penalty of \$100,000; Scott Lines to pay a civil penalty of \$50,000; and the LOM Entities to pay jointly and severally, a civil penalty of \$450,000. On or about November 3, 2010, the Defendants paid the entire amount of \$2,532,321 ordered by the Court and the funds were deposited in the Court Registry Investment System (“CRIS”).

By Order dated August 19, 2011, the Court also entered Final Judgments against Defendants Curtis Peever and Chapman, ordering: Defendants Curtis and Peever to pay, jointly and severally, disgorgement of \$2,894,537.48 and prejudgment interest of \$1,611,998.18; and Defendants Curtis, Peever and Chapman to pay civil penalties of \$120,000 each. Defendants Curtis, Peever and Chapman each defaulted on their payments and the SEC through its collection efforts, in September 2019 recovered approximately \$263,693.82 from the sale of property owned by Curtis that was located in Canada. Those funds were also deposited in the CRIS account in September 2019.

The funds recovered from the Defendants together with interest earned, totaling approximately \$2.9 million, were deposited in an interest bearing account CRIS under the case name “SEC v. Brian N. Lines, et al. No.1:07-cv-11387” (the “Fund”). The Final Judgment entered against the Defendants in this matter provided that the Commission may “propose a plan to distribute the Fund subject to the Court’s approval.”

By Order dated December 19, 2019, this Court created a Fair Fund in this matter, and appointed Miller Kaplan Arase LLP (“Miller Kaplan”) to act as tax administrator (“Tax Administrator”) of the Fair Fund and to handle the tax obligations of the Fair Fund. The

Distribution Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code (IRC), 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5.

B. Authorization to Pay Federal Estimated Tax Liabilities

Pursuant to the Court’s December 19, 2019 Order appointing the Tax Administrator to handle the tax obligations of the Fair Fund, the Tax Administrator is required to pay taxes in a manner consistent with treatment of the Fair Fund as a QSF.

By Order dated March 18, 2020, this Court disbursed funds to pay the federal estimated tax liabilities of \$48,050.00 for calendar years 2010 to 2019 for the QSF.

The Tax Administrator has subsequently determined that the Fair Fund owes a total of \$41.27 for late payment interest related to the 2010 federal tax liability. *See* Declaration of Jude P. Damasco In Support of Fee Request (“Declaration”), dated November 22, 2020, attached as Exhibit A. The Declaration has been reviewed by the undersigned Commission counsel who has no objections.

WHEREFORE, for all the foregoing reasons, the Commission respectfully requests that this Court enter the proposed Order and grant such other relief as it deems just and proper.

Dated: February 3, 2022

Respectfully submitted,

/s/ Nichola L. Timmons

Nichola L. Timmons
(NYS Bar # 2954774; SDNY Bar # NT6365)
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
100 F. Street NE
Washington, DC 20549-5678
Telephone: (202) 551-4456
Facsimile: (301) 623-1188
Email: TimmonsN@sec.gov